

**IN THE UNITED STATES DISTRICT COURT
FOR NORTHERN DISTRICT OF TEXAS**

SIMON NICHOLAS RICHMOND,)	
)	
Plaintiff,)	
)	Case No.: 3:2014-cv-04298-N
v.)	
)	
SW CLOSEOUTS INC., ET AL.)	Judge Kinkeade
)	
Defendants.)	
)	

**AFFIDAVIT IN SUPPORT OF PLAINTIFF'S APPLICATION FOR
ATTORNEY'S FEES AND COSTS PURSUANT TO FED.R.CIV.P. 37(a)(5)**

I, THEODORE F. SHIELLS, declare, under the penalty of perjury pursuant to 28 U.S.C. § 1746(2), and state:

1. I am an attorney licensed to practice law in the States of California, New York, and Texas, and am the principal at SHIELLS LAW FIRM, P.C., attorneys for Plaintiff SIMON NICHOLAS RICHMOND (“Richmond” or “Plaintiff”) in the above captioned cases.

2. I have knowledge of the facts set forth herein, and if called upon as a witness, I could testify to them competently under oath.

3. I have been practicing intellectual property litigation for 33-years.

4. The billing rate for my time is \$385/hr. and the billing rate for my firm’s paralegal is \$100/hr. My billing rate is significantly below that of similarly experienced litigators in the area of patent litigation. The 2015 AIPLA [American Intellectual Property Law Association] Survey shows that, in 2014, median billing

rates for attorneys performing intellectual property work and having 25-34 years of experience were \$425.00 per hour and \$400.00 per hour for solo practitioners, both of which rates are more than Mr. Shiells usual hourly rate of \$385.00 per hour. A true and correct copy of the cover and relevant pages of the Survey are attached as an Attachment to this Declaration.

5. Based upon my experience and approximately 20 years of practice in the Dallas area, average intellectual property paralegal billing rates in Dallas are currently in excess of \$125.00 per hour.

6. The Firm records recorded in the Firm's computerized time and billing system indicate that the following time was logged and will be billed to the client, with respect to Plaintiff's Motion to Compel Post-Judgment Requests for Production and the first 25 numbered interrogatories:

Date	Task	Person	Time Spent	Cost
03/16/16	Drafted Motion to Compel damages discovery re: Interrogatories and Requests for production	Paralegal (SC)	7.0 hours	\$700
03/17/16	Drafted Letters to Defendants SW Closeouts and Nguyen re failure to answer damages discovery	Paralegal (SC)	3.0 hours	\$300
03/21/16	Edited Motion to Compel damages discovery and Request for Sanctions	Paralegal (SC)	2.5 hours	\$250
03/22/16	Reviewed and edited Draft of Motion to Compel damages discovery re: Interrogatories and Requests for production and request for sanctions	Counsel (TFS)	1.2 hours	\$462.00
03/22/16	Reviewed, edited and executed Letters to Defendants SW Closeouts and Nguyen re failure to answer damages discovery	Counsel (TFS)	0.7 hours	\$269.50
03/22/16	Mailed out letters to Defendants re failure to provide discovery responses	Paralegal (SC)	0.3 hours	\$30


04/15/16	Updated and assisted in filing the Motion to Compel and Request for Sanctions	Paralegal (SC)	1.4 hours	\$140
04/15/16	Reviewed and edited the updated Motion to Compel and Request for Sanctions and supervised filing of same	Counsel (TFS)	0.8 hours	\$308.00
06/06/16	Drafting cover letter and mailing copy of Court's order compelling Defendants to produce requested discovery	Paralegal (SC)	2.0 hours	\$200
06/06/16	Reviewed, edited and executed the letters to Defendants re Court's order compelling Defendants to produce requested discovery	Counsel (TFS)	0.7 hours	\$269.50
TOTAL				\$2,929.00

7. The total amount for attorney's fees related to Plaintiff's Motion to Compel Post-Judgment Requests for Production and the first 25 numbered interrogatories is \$2,929.00

8. Firm's records, also, indicate that it incurred \$21.04 in postage costs for various certified and regular mail items sent to Defendants SW Closeouts Inc. and Quang Ho Nhat Nguyen, related to Plaintiff's Motion to Compel Discovery Responses.

9. The combined sum for attorney's fees (\$2,929.00) and costs (\$21.04) is \$2,950.04.

Dated: June 23, 2016


 /s/ Theodore F. Shiells
 Theodore F. Shiells

AIPLA

2015 Report of the Economic Survey

**Prepared Under Direction of
Law Practice Management Committee**



American Intellectual Property Law Association
241 18th Street South, Suite 700
Arlington, Virginia 22202
www.aipla.org



Report of the Economic Survey 2015

Prepared Under Direction of the
American Intellectual Property Law Association
Law Practice Management Committee

Richard W. Goldstein, Chair
Donika P. Pentcheva, Vice Chair

June 2015

Prepared by:



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SUMMARY OF SURVEY RESULTS BY PRACTICE TYPE

The survey findings reported in aggregate for all respondents are also broken down and summarized for eight major practice types covered—solo practitioner, private firm partner, private firm associate, private firm of counsel, corporate IP department head, corporate IP department attorney, private firm patent agent, and corporate IP department patent agent.

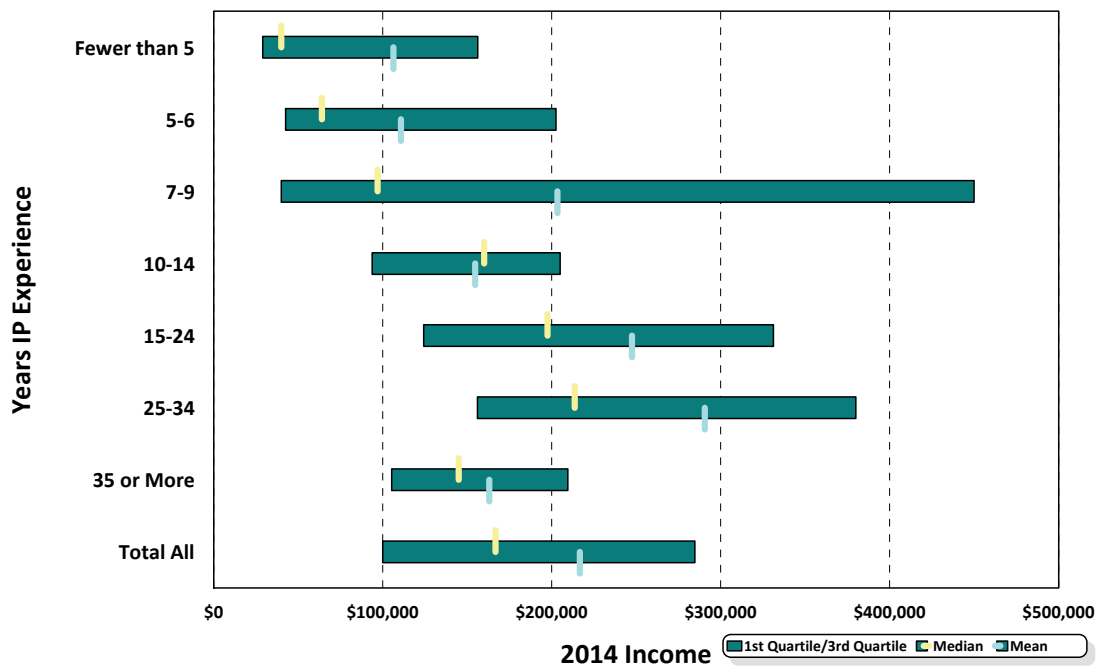
SOLO PRACTITIONER

- 122 solo practitioners responded to the 2015 survey and reported an average of 21.2 years of IP attorney experience. Just over half (50.8%) held a bachelor's as their highest degree (other than their law degree), while 36.9% held a master's degree.
- The mean (average) gross income for solo practitioners was \$216,692 for 2014, up nine percent from \$198,436 in 2012; the median was \$166,800 dipping slightly from \$167,500 two years ago. The highest median income was reported for the Minnesota-St. Paul PMSA and Other East—\$300,000—followed by Los Angeles at \$275,000. The lowest median income was reported for Other Southeast—\$87,000.
- Solo practitioner 401(k)/403(b) employer contributions averaged \$24,802 with \$25,000 as the median.
- Expected median total cash income for 2015 was \$150,000, 10.1% below the median actual gross income reported for 2014.
- Solo practitioners spent an average of 53.3% of their time engaged directly in IP prosecution work, down somewhat from 56.3% in 2012.
- Patent work was the dominant IP area measured in time spent (61.6%), also dropping from 65.0% in 2012.
- The average number of new priority US and PCT Patent applications prepared and filed by solo practitioners in 2014 was 19.2, up from 14.3 in 2012. Solo practitioners specializing in computer software reported the highest median number of new US and PCT Patent applications prepared and filed 21.0, up from 15.0, reported two years ago. Medical/Health Care IP specialization was close behind with a median value of 20.0 new priority US and PCT patent applications prepared and filed in 2014.
- The median number of billable hours recorded in 2014 by solo practitioners was 800, up from 683 hours in 2012. Billable hours varied by experience, climbing to 1,200 among those with 25-34 years of experience. However, billable hours drop off to 600 hours for those who are likely closer to retirement (those with 35 years or more experience). Billable hours were the highest for those in the Minnesota-St. Paul area at 1,440 (median) hours.
- The average hourly billing rate was \$321 per hour in 2014, up from \$295 in 2012 and 2010.
- More than half (59.6%) of services billed were on an hourly basis while 38.4% were based on a predetermined fee, fairly similar to the past two surveys.
- The median dollar amount a solo practitioner billed for legal services performed in 2014 was \$215,001, up from \$180,000 in 2012.
- Solo Practitioners indicate that they spent an average of 5.4 hours per week on business development.

2014 GROSS INCOME (P. I-9, Q10)

SOLO PRACTITIONER

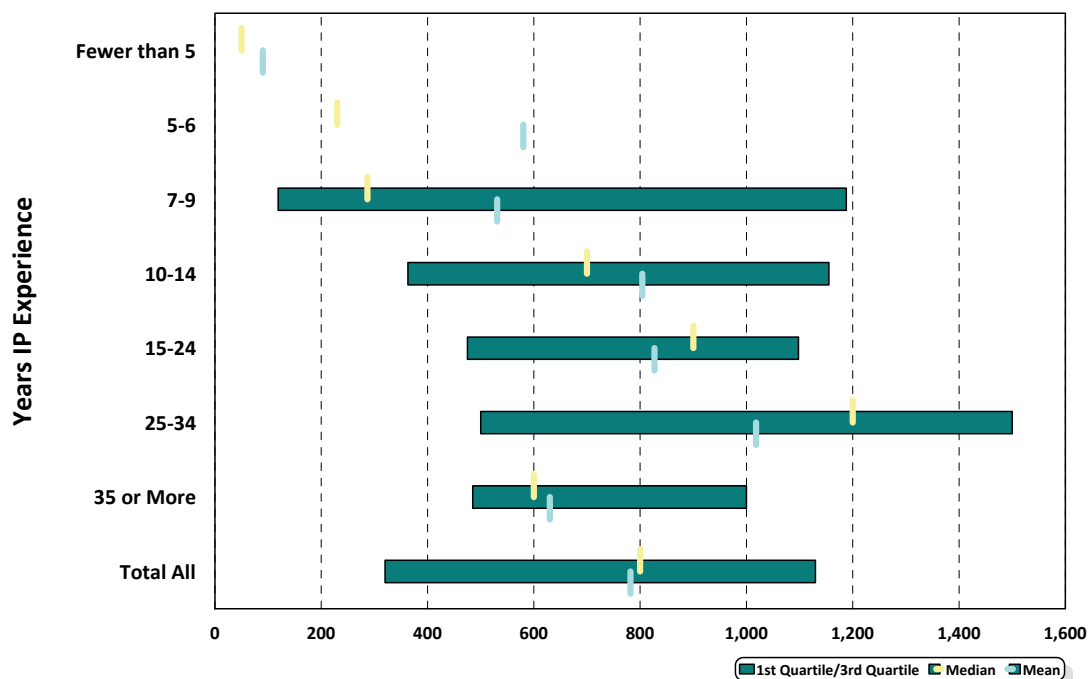
By Years of IP Experience



2014 BILLABLE HOURS (P. I-14, Q28)

SOLO PRACTITIONER

By Years of IP Experience



AVERAGE HOURLY BILLING RATE (P. I-15, Q29)

SOLO PRACTITIONER

By Years of IP Experience

